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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/467,168	12/20/1999	JAMES MARSHALL OATHOUT	SS2945	2005

23906 7590 09/11/2002

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LEGAL PATENT RECORDS CENTER
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WILMINGTON, DE 19805

EXAMINER

BEFUMO, JENNA LEIGH

ART UNIT PAPER NUMBER

1771

DATE MAILED: 09/11/2002

14

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/467,168

Applicant(s)

OATHOUT, JAMES MARSHALL

Examiner

Jenna-Leigh Befumo

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 July 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) 8-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-7, 16 and 17 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 5, 2002 has been entered.

Response to Amendment

2. Amendment B, submitted as Paper No. 10 on June 5, 2002, has been entered. Claim 1 has been amended and claims 16 and 17 have been added. Therefore, the pending claims are 1 – 17. It is noted that the newly added claims were renumbered from numbers 18 and 19 under Rule 1.126. Claims 8 – 15 are withdrawn from consideration as being drawn to a non-elected invention.

3. Amendment B is sufficient to overcome the 35 USC 112 2nd paragraph rejection to claim 1 set forth in section 6 of the previous Office Action.

Claim Rejections - 35 USC § 103

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 1 – 7, 16, and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicant's Admission or Johnson et al. in view of Paley et al.

Claims 1 – 7 are rejected for the reasons set forth in section 8 of the Office Action dated February 26, 2002. Only the limitations which affect the method in a manipulative sense, and do

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not amount to the mere claiming of a use of a particular structure are given patentable weight at this time. *Ex parte Pfeiffer*, 1962 C.D. 408 (1961). These limitations are “contacting with the nonwoven fabric a quantity of liquid present on a surface” and “removing from the surface by wiping with the nonwoven fabric at least a portion of the liquid.” The limitations which are drawn to the physical structure of the nonwoven fabric do not affect the method using the nonwoven fabric. And the properties of the fabric, such as the dynamic wiping efficiency and the particle removal efficiency, also do not effect the method of using the nonwoven in a manipulative sense. The properties of the nonwoven fabric relate to the structure and type of nonwoven and not the method of use. Finally, the cleanliness of the surface from which the liquid was removed also does not effect the method in a manipulative sense since the cleanliness would be due to the structural limitations of the fabric and the liquid, i.e., how big the fabric is, what the liquid is, and not the method of using the nonwoven fabric. Further, it is noted that the limitations that the fabric be used “in a Class 10 or cleaner cleanroom” is also not given patentable weight at this time.

Thus, newly added claims 16 and 17 are also rejected since they only recite limitations to the structure of the nonwoven fabric and not the method.

Response to Arguments

6. Applicant's arguments filed June 5, 2002 have been fully considered but they are not persuasive. The Applicant argues that Pfeiffer is not relevant to the recited method claims since Pfeiffer is not directed to a new use for a previously existing product (Amendment B, page 2). Further, the Applicant states that a process using a known composition in a new and unobvious way *may be* patentable. First, as set forth in the Advisory Action, since Pfeiffer is directed to

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what limitations in method claims are given patentable weight than Pfeiffer directly relates to the claims reciting the method of using a nonwoven fabric. Pfeiffer discloses that a structural limitation must affect the method in a manipulative sense to be given patentable weight.

Additionally, it is noted that while a using a known material in a new and unobvious way *may be* patentable, the Applicant has failed to demonstrate that using a wiping fabric to wipe a surface is new or unobvious. While a new use of a known material *may be* patentable, the patentability of the new use is predicated on the new use being new and unobvious over the prior art. However, in this case, both the nonwoven fabric and the method of cleaning are known. The environment fails to distinguish the process from cleaning processes disclosed in the prior art. Regardless of whether the method is preformed in a cleanroom or a kitchen, the manipulative steps recited in the claims, i.e., "contacting the surface" and "removing liquid", are still the same. Thus, since the Applicant has admitted the nonwoven fabric is known and the prior art has shown that it is known to use wiping fabrics to wipe up wet surfaces, than the Applicant cleanliness of the surface is inherent to the fabric and is only equivalent to finding a property in the known material and not a new use. Therefore, the rejections are maintained.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jenna-Leigh Befumo whose telephone number is (703) 605-1170. The examiner can normally be reached on Monday - Friday (9:00 - 5:30).

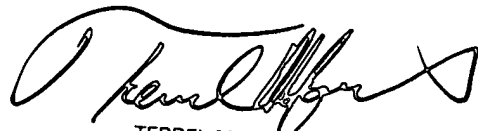
If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (703) 308-2414. The fax phone numbers for the

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organization where this application or proceeding is assigned are (703) 872-9310 for regular communications and (703) 872-9311 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.

Jenna-Leigh Befumo
September 3, 2002



TERREL MORRIS
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 1700